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RUEHPE/AMEMBASSY LIMA PRIORITY 1542
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C O N F I D E N T I A L QUITO 000734

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E.O. 12958: DECL: TEN YEARS
TAGS: [PGOV](#) [PREL](#) [EC](#)
SUBJECT: CONGRESS SUSPENDED PENDING APPEAL

Classified By: PolChief Erik Hall for reasons 1.4 (b&d).

¶1. (SBU) Summary: A local judge's ruling has elevated the issue of the composition of Congress to the Constitutional Court, and provoked a new dispute over whether the injunction takes effect immediately or only after judicial review by the higher court. On one side are the 57 dismissed members of Congress, now supported by President of Congress Jorge Cevallos, who argued that the judge's ruling should immediately restore the 57. The President of the Constitutional Court has publicly argued the reverse. Meanwhile, pro-constituent assembly members of Congress (ID, PRE, MPD, Socialists, Pachakutik, independents and possibly the UDC) have called for a vote to replace the Constitutional Court. The Court only increased its vulnerability when it became public that two of its nine justices had met privately with representatives of the 57, opening itself to charges of unethical conduct.

¶2. (C) Congress was stymied by the lack of a quorum on March 27, and then suspended again by Cevallos early on March 28. Maneuvers by the pro-Assembly members of Congress, combined with indigenous pro-assembly demonstrations in Quito on March 28, are a clear attempt to intimidate another key democratic institution, albeit a very sullied one. It could well succeed. End Summary.

Local Court Action

¶3. (U) On March 27, a local judge in Guayaquil (Jose Ramirez, of the 15th Criminal Court of Guayas province) granted an injunction requested by a member of the PSC against the Supreme Electoral Tribunal's (TSE) dismissal of 57 members of Congress. The TSE will reportedly appeal the ruling to the Constitutional Court, which is currently deliberating on a distinct but related motion brought on behalf of the dismissed members.

Minority Denied a Quorum to Move Against Court

¶4. (U) A pro-Assembly minority in Congress, reportedly composed of the ID, MPD, PRE, Pachakutik, Socialists, some UDC members and independents, is coalescing around a Pachakutik initiative to replace the current Constitutional Court. These deputies argue that the members of the current court were sworn in on February 24, 2006 to serve out the four-year terms of their predecessors, who had been installed in 2003 but were subsequently dismissed by Congress in December 2004. (Between December 2004 and early 2006, the Court was vacant). The minority is seeking support for this initiative from the 21 substitute deputies comprising the

National Dignity group (comprised of rebel PRIAN, PSP, and PSC members).

¶5. (U) Congressional opponents of the Constitutional Court were thwarted from implementing this plan when on March 27 Congress did not meet due to the lack of a quorum (only 50 members were present, after the PSC and PSP withdrew their representatives). Cevallos' controversial decision to suspend the March 28 session even before counting the members present postponed a vote for at least another day.

Comment

¶6. (C) Cevallos' March 28 decision muddied already opaque legal waters, and will likely provoke a strong reaction from the government to physically impede the 57 from returning to Congress. It could also prompt the Constitutional Court (TC), anxious about its future, to quickly overturn on the TSE appeal of the Guayas judge's decision (it had already

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announced that its decision on the other appeal would take about 40 days--safely after the April referendum, but this puts fresh heat back on them). Congress' threats against the Court as appear to be an attempt to intimidate the one institution still potentially in the way of an assembly. Coupled with renewed pro-assembly demonstrations (including an estimated 2,000 indigenous in Quito on March 28), it could well be successful. Should the Court break with tradition and actually uphold the constitution, it will likely be toppled, to popular acclaim.

¶7. (C) Congress' current convulsions are seen by most Ecuadorians as a sideshow to the April 15 referendum and subsequent constituent assembly. The Correa government has skillfully created pressure for the assembly, backed by strong popular support, with intermediaries in front doing the work and saving them from charges of clear and direct intervention. The opposition is determined to catch Correa in a web of unconstitutional behavior, but continue to undermine their credibility with clumsy mistakes like the meeting with TC justices.

¶8. (C) The recent OAS election observation mission visit helped to shift the spotlight forward, to the referendum, but it shifted back to the previous depths as soon as they left. Apart from the OAS, whose signals have been interpreted as supportive of the assembly process, the international community has been largely silent about Ecuador's internal affairs. We have avoided USG public comment on these disturbing and evolving circumstances given the murky legality of moves from all sides, but will continue to share our view with the government and opposition that the assembly process will only be discredited by further institutional disintegration.

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